

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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In Re: Uponor, Inc., F1807 Plumbing  
Products Liab. Litig.

Court File No. 11-MDL-2247 (ADM/JJK)

This Document Relates to:

All Actions

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**Motion for Order for Release of Security for Rule 7 Appeal Bond**

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TO: All parties and their attorneys of record

**PLEASE TAKE NOTICE** that Objector/Proposed Intervenor/Appellant Oscar Ortega and Objectors/Appellants Toney and Bonnie Abbott, Alberto and Irma Aguilar, Steven A. Archangel, Alejandro and Monica Camarena, Evelyn Candido, Luis Carillo and John Parrett, Jaime and Marta Cubides, Verna Culp, Louise Ellis, Rosario Lopez, Monica McCulloch and Daniel Saenz, Angel Morales and Cassandra Smith, Micaela Negrete and Luis Zapata, Todd and Sylvia O’Neal, Robert Perez, Henry Pimente, Gerardo Rivera, Gregario and Marisol Sanchez, Laura Spindola, Wilber Torres, Kenneth and Debra Wright, Raul Zelaya, and Jose and Lucila Zul (collectively “Ortega Objectors”) will move and hereby do move the District Court for an Order, pursuant to Local Rules 67.2 and 67.3(f), to release the security for the Rule 7 appeal bond deposited by check with the District Court Clerk.

**Deposit of Rule 7 Appeal Bond**

Pursuant to the District Court’s Order Requiring Rule 7 Appeal Bond dated September 11, 2012 [Doc. No. 132] and the Eighth Circuit Court of Appeal’s Order dated

September 28, 2012 staying the District Court's order for posting of an appeal bond in excess of \$25,000 pending appeal [Doc. No. 148-1], on October 1, 2012, Ortega Objectors deposited \$25,000.00 via check with the Clerk of Court. [Doc. Nos. 148 (Notice of Securement of Rule 7 Appeal Security), 149 (receipt for deposit), 149-1 (letter to Court Clerk accompanying check)]

### **Eighth Circuit Affirmed District Court**

In its opinion and judgment filed on June 7, 2013, the Eighth Circuit Court of Appeal affirmed the District Court's final approval of the class action settlement and denial of Ortega's motion to intervene. [Doc. Nos. 152, 153] On July 8, 2013, the Eighth Circuit issued the formal mandate. [Doc No. 154] The Appellees did not file a bill of costs. Thus, there is no further need for security "to ensure payment of costs on appeal." FRAP 7.

### **Order for Withdrawal of Cash Bond**

"Withdrawal of cash bonds is governed by LR 67.2." Local Rule 67.3(f). Withdrawal of cash bonds from the court registry requires a court order. Local Rule 67.2(a). "The filing requirements of LR 7.1(a)-(b), Civil Motion Practice, do not apply to motions to withdraw money from the court registry." 2011 Advisory Committee's Note to LR 67.2.

Ortega Objectors provide the following information required under Local Rule 67.2(b)(1):

- (A) Ortega Objectors are concurrently filing the Withdrawal Payee Information form with this Motion;
- (B) The moving party is not seeking withdrawal "before the expiration of the 14-day automatic stay imposed under Fed. R. Civ. P. 62(a)" and no such stay is applicable;
- (C) Ortega Objectors are concurrently providing to chambers and serving a proposed order that specifies the name of the payee and the amount of money to be disbursed to each payee; there is no accrued

interest to be disbursed (*see* LR 67.1(c)(1) (money posted as bond will not be deposited in an interest-bearing account)).

### **Conclusion**

Ortega Objectors request that the Court issue an order for the withdrawal of the cash bond deposited as Rule 7 appeal bond security during the pendency of the now-concluded appeal.

Dated: October 16, 2013

Kasdan, Simonds, Weber & Vaughan LLP

By: s/ Bryan M. Zuetel  
Kenneth S. Kasdan (Cal. SBN 71427)  
Email: [KSKasdan@Kasdansimonds.com](mailto:KSKasdan@Kasdansimonds.com)  
Michael D. Turner (Cal. SBN 126455)  
Email: [MTurner@Kasdansimonds.com](mailto:MTurner@Kasdansimonds.com)  
Bryan M. Zuetel (Cal. SBN 258836)  
Email: [BZuetel@Kasdansimonds.com](mailto:BZuetel@Kasdansimonds.com)  
19900 MacArthur Blvd., Suite 850  
Irvine, CA 92612  
Telephone: 949-851-9000  
*Attorneys for Ortega Objectors*